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Before the
Federal Communications Commission
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Federal-State Joint Board on) CC Docket No. 96-45
Universal Service)
)

To: The Commission

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COMMENTS OF METRICOM, INC.

Metricom, Inc. ("Metricom"), through its attorneys, hereby submits these comments on the Federal-State Joint Board's Recommended Decision regarding Universal Service.^{1/} Metricom commends the Joint Board on its comprehensive and well-balanced decision, which Metricom believes gives effect to Congressional intent. The Recommended Decision provides substantial support for the positions Metricom and many others advocated in comments to the Joint Board.

These comments focus particularly on the provision of advanced telecommunications services to schools and libraries. Metricom expresses its agreement with certain provisions of the Recommended Decision, and respectfully requests that the Commission exercise its discretion to exempt Part 15 unlicensed service providers from the obligation to contribute to universal service funding: the administrative costs of collecting those contributions will far exceed the contributions.

^{1/} *Federal-State Joint Board on Universal Service Recommended Decision*, CC Docket No. 96-45, FCC 96J-3 (rel. Nov. 8, 1996)(Recommended Decision); *see Common Carrier Bureau Seeks Comment on Universal Service Recommended Decision*, Public Notice, DA 96-1891 (rel. Nov. 18, 1996).

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I. Background

Metricom is a young, rapidly expanding, technologically innovative company based in Silicon Valley. Metricom is a pioneer in the development of state-of-the-art, spread spectrum, unlicensed data communications systems operating under Part 15 of the Commission's Rules and Regulations. Metricom's frequency hopping, spread spectrum systems -- at the leading edge of technology -- offer a unique, license-free wireless solution providing cost-effective, intelligent and flexible local and wide area (regional) data communications for a variety of important applications in the public interest.

II. The FCC Should Adopt the Joint Board's Recommendations on Access to Advanced Telecommunications Services and Discount Rates

A. Access Should be Provided to Advanced Telecommunications Services Without Regard to Technology or Provider

Metricom supports the Joint Board's recommendation that Internet access, provided by any commercial service provider to schools and libraries, be eligible for discounts and reimbursement through the universal service fund.^{2/} The ISP need not meet the literal definition of "telecommunications carrier" under the statutory basis recommended by the Joint Board.^{3/} This approach has great merit in that the most innovative providers will not be excluded from the universal service funding mechanism and "schools and libraries will be afforded the flexibility to procure whatever Internet access arrangements they determine to be cost-effective."^{4/}

^{2/} Recommended Decision, ¶¶ 462-64, 473.

^{3/} Recommended Decision, ¶¶ 460, 484.

^{4/} Recommended Decision, ¶ 462.

Metricom also sees great merit in the Joint Board's recommendation that non-traditional internal connections within schools and libraries -- wireless, unlicensed, and other suppliers providing alternatives to traditional wireline services -- be eligible for universal service support.^{5/} Providers of internal connections would be treated like providers of Internet access -- connections would be available at a discount from any provider that the school or library selects, who would be reimbursed through the universal service support mechanism.^{6/} This recommendation helps implement the intent of Section 254(h) of the Telecommunications Act of 1996 (the "1996 Act") that there be access to information services at the individual classroom level. Allowing the discount to apply to wireless and unlicensed technologies is essential to the principle of competitive neutrality and is key to maintaining the size of the universal service fund at realistic and manageable levels because it provides a viable, cost-effective, alternative.

B. A Discount Rate for Universal Service is Better than a Fixed-Fund Approach

The Joint Board recommended that: (i) the price schools and libraries pay to service providers be discounted by a percentage ranging between 20 and 90 percent, depending on the relative wealth of the school or library;^{7/} and, (ii) a \$2.25 billion total annual cap apply to reimbursements to service providers.^{8/} The Commission should adopt the Joint Board's

^{5/} Recommended Decision, ¶¶ 473-84. As the Joint Board recognized, providing physical wiring may be prohibitively expensive, and may not be the best means to achieve the goal of access to advanced telecommunications and information services in individual classrooms. Recommended Decision, ¶ 482 ("[T]he McKinsey Report found that wireless connections would be the more efficient alternative for connecting schools to telephone carrier offices for more than 25 percent of public schools.").

^{6/} Recommended Decision, ¶ 484.

^{7/} Recommended Decision, ¶ 555.

^{8/} Recommended Decision, ¶ 556.

recommendation. The Joint Board's approach permits the schools and libraries to partner with providers in the procurement of advanced information services, while at the same time taking into account each individual institution's relative ability to pay. This approach is preferable to a fixed-fund approach based on some estimate of what costs are in 1996 to install and support information access because it will, among other things, let the schools and libraries spend an amount that is within their means and that is tailored to the institutions' individual needs. The recommendation also will help minimize the impact of the Congressionally mandated subsidy program on competition because it will encourage schools and libraries to make economically efficient choices.

III. Providers of Unlicensed Services Should be Exempted From the Requirement That Telecommunications Carriers Contribute to the Mechanisms Established for the Preservation and Advancement of Universal Service

Although the 1996 Act requires the FCC to levy a surcharge on every company that provides interstate telecommunications services to subsidize the price of furnishing certain services to certain users, the 1996 Act permits the FCC to exempt from this requirement any "carrier or class of carriers . . . if the carrier's telecommunications activities are limited to such an extent that the level of such carrier's contribution to the preservation and advancement of universal service would be de minimis."^{2/}

Metricom urges the Commission to exempt providers of unlicensed services under the "de minimis" exemption. Providers of unlicensed services are a class of carriers whose interstate telecommunications activities and likely contributions to universal service are

^{2/} 1996 Act § 254(d).

insignificant, particularly when compared to those of providers of licensed services.^{10/} Therefore, sound public policy requires, and the 1996 Act authorizes, the Commission to forbear from burdening Part 15 operators with unnecessary surcharges and the Commission with unnecessary and onerous administrative costs.

The FCC may refrain from imposing a surcharge in cases in which "the administrative cost of collecting contributions from a carrier or class of carriers would exceed the contribution that carrier would otherwise have to make."^{11/} Although the Joint Board agreed that this condition should govern the interpretation of the de minimis exemption, it declined to exempt providers of Part 15 services from the requirement to contribute to universal service.^{12/} However, the condition is met in the case of Part 15 services. Administrative costs associated with levying the surcharge on unlicensed carriers include: (1) deciding which Part 15 services are telecommunications services; (2) identifying Part 15 service providers, which would be a difficult task given that no licenses exist to assist in the identification process; (3) separating costs and revenues, (4) allocating contributions based upon some accounting principles to be developed, and (5) the adverse effects of encumbering an industry whose success depends upon its ability to keep costs and regulatory burdens as low as possible.^{13/} On the other hand, Part

^{10/} Part 15 revenues amount to less than one half of one percent of telecommunications industry revenues. Department of Commerce, *Preliminary Spectrum Reallocation Report*, NTIA Special Publication 94-27 (Feb. 10, 1994).

^{11/} S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess. 131 (1996).

^{12/} Recommended Decision, ¶¶ 797-99.

^{13/} As cited in Metricom's comments to the Joint Board, the FCC has repeatedly demonstrated its belief in the importance and utility of unlicensed devices and in the maintenance, support, and encouragement of that industry.

15's contributions, even if assessed to the full extent of the Commission's authority, are likely to be de minimis.

IV. Conclusion

For the foregoing reasons, the Commission should adopt regulations relating to universal service in accordance with these comments.

Respectfully submitted,

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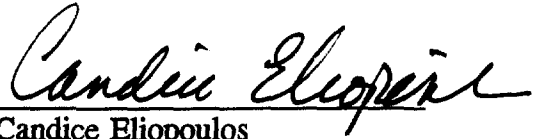
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments of Metricom, Inc. was served this 19th day of December, 1996, by first class mail, postage prepaid or by hand (*) to each person on the attached service list.

A handwritten signature in cursive script, reading "Candice Eliopoulos".

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